

EXHIBIT 3

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

**MARK D. CHAPMAN, et al., on
behalf of themselves and all others
similarly situated,**

Plaintiffs,

v.

Case No. 2:19-cv-12333-TGB-DRG

GENERAL MOTORS, LLC., a Delaware Corporation

Defendant.

DECLARATION OF EDWARD M. STOCKTON

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1. INTRODUCTION

1. My name is Edward M Stockton. I am the Vice President and Director of Economics Services of The Fontana Group, Inc. (“Fontana”), a consulting firm located at 3509 North Campbell Avenue, Tucson, Arizona 85719. I also serve on the Board of Directors of Fontana and its parent company, Mathtech, Inc. Fontana provides economic consulting services and expert testimony regarding the retail motor vehicle industry and other industries throughout the United States, Canada, and other countries.

2. Plaintiffs in this matter seek compensation for consumers of model year 2011-2016 Duramax diesel 6.6L V8 LML engine trucks purchased in the United States, manufactured by GM, and marketed as the Chevrolet Silverado or GMC Sierra (“Class Vehicles”). Plaintiffs allege that the CP4 fuel pump used in Class Vehicles is defective and unreasonably likely to fail. When the failures occur, the effect of the failures is not limited to the fuel pump itself and, instead, lead to broader “catastrophic” engine failures.¹ Many Class Members whose CP4 fuel pumps have catastrophically failed have incurred substantial out-of-pocket expenses for CP4 repairs when GM has not covered the repairs by warranty protection.

3. I issued two reports in this matter. My first report (“Stockton Report”) described opinions formed and the bases for those opinions in response to the questions from Counsel for Plaintiffs set forth below. My second report (“Supplemental Report”) identified how the production of the corrected Customer Pay data by GM affects certain findings of the Stockton Report, notably, per-unit repair cost in a Customer Pay environment.

Questions Posed by Counsel for Plaintiffs for Stockton Report:

¹ See *Second Amended Class-Action Complaint*, Paragraph 1. See also 8/20/21 N. Chinnusamy Dep. Tr. at 56:5-22; *id.* at 81:15-82:4; 9/15/21 P. Hubl Dep. Tr. at 180:8-16.

- (i) Whether reasonable and feasible methods exist to determine typical out-of-pocket expenses for consumers who paid for repairs following catastrophic CP4 failures; and
- (ii) Whether it is possible to estimate aggregate out-of-pocket expenditures by consumers who paid for repairs following catastrophic CP4 failures.

4. GM produced the report of Professor Lorin M Hitt (“Hitt Report”), which, in part, responded to the Stockton Report and the Supplemental Report, as well as a motion to exclude my opinions (“GM’s Motion”)² on various grounds. Additionally, Plaintiff’s technical expert, Dr. Edgar, used updated CP4 pump sale data to produce revised counts of CP4 replacements that occurred out-of-warranty. In light of the Hitt Report, this Declaration clarifies the opinions and findings presented in the Stockton Report and, as necessary, the Supplemental Report. I also incorporate GM’s replacement Customer Pay Data File and Dr. Edgar’s updated pump replacement counts. Finally, I respond to the following question posed by Counsel for Plaintiffs: Whether it is possible to evaluate whether a substantial portion of vehicles in the Customer Pay Data File were under warranty at the time of their CP4 repairs?

5. The Stockton Report sets forth my qualifications to complete this assignment, compensation paid to my employer for time spent and expenses incurred in this matter, and the materials relied upon or considered in forming my opinions.

6. My opinions do not change in response to the Hitt Report. Since the Hitt Report does not address the Stockton Report’s repair cost analysis and findings derived from the Warranty Data File or from GM’s internal estimates, it is not necessary to revisit these topics. I do clarify certain findings relating to cost analysis and estimates derived from the Customer Pay Data File.

² General Motors’ Motion to Exclude Opinions and Testimony of Plaintiffs’ Expert Edward M. Stockton (May 6, 2022), ECF No. 119.

7. While I consider the Hitt Report and Dr. Hitt's deposition testimony as they relate to my report, the techniques and processes criticized by Dr. Hitt are sound and reasonable and do not require modification. In some cases, however, it is helpful to clarify certain findings from the Stockton Report in light of Dr. Hitt's opinions.

8. A substantial portion of the Stockton Report is its analytical steps to arrive at proper data sets from which to estimate average and aggregate repair costs. It is not necessary to revisit those steps here. Dr. Hitt acknowledges in his deposition that he [REDACTED]

[REDACTED]³ In any case, the Stockton Report and the nature of its underlying data make the effects of each assumption and step in its analysis transparent and measurable.

2. VARIANCE IN REPAIR COST

9. Dr. Hitt offers a general critique that the Stockton Report's [REDACTED]

[REDACTED] As a general matter, aggregate economic harm for a class of affected parties is equal to the average economic harm experienced multiplied by the number of occurrences of harm. Variance is not relevant to this calculation.

10. The Stockton Report extensively analyzes variation in both the constituent records that comprise the average repair costs and the impact on average repair costs from calculating average repair costs under different criteria. Dozens of exhibits in the Stockton Report evaluate variation, at the individual repair level and at other levels, such as costs by state, costs before and after the

³ Deposition of Lorin Hitt: 236:18 – 238:3

introduction of the Kit, state-level costs under alternate data selection methods, Customer Pay versus Warranty Costs, and costs by year.⁴

11. These exhibits demonstrate that (a) the Stockton Report fulsomely discloses variance, b) while variance exists, the Stockton Report's cost of repair estimates are not sensitive to variation across individual repairs since changing the data used for estimating cost does not materially change average or aggregate repair costs, and (c) the data and methods set forth in the Stockton Report already evaluate whether and how repair costs differ across various subgroups of the data set.

12. One possible measure used to evaluate variance, or potential variance, of estimates is the *confidence interval*. Confidence intervals, generally, describe possible ranges around an average-based estimate. A hypothetical example of a confidence interval is that the average value from some sample is \$1,000, and the true value of the population is 95% likely to lie between \$920 and \$1,080. The use of confidence intervals is not necessary here, as they would add little to no analytical value. GM's Customer Pay Data File includes the records of CP4 pump replacements by GM dealerships. The Stockton Report and the Supplemental Report calculate and describe average repair costs using larger portions of the Customer Pay Data File, which is essentially the known population of CP4 pump replacements by GM dealerships in Customer Pay encounters. Since the Stockton Report considers nearly all Customer Pay repair records produced by GM, there is little difference between the records considered to estimate average costs and the population of available records of CP4 repairs. Confidence intervals are more useful when forming estimates from relatively small proportions of the data.

⁴ See, e.g., Stockton Report, Tabs: 5-10, 12, 14, 19-21.

3. DR. HITT'S DEPOSITION

13. The following summary assists in clarifying which other findings in the Stockton Report are subject to disagreement by Dr. Hitt and the extent of any disagreement.

14. Dr. Hitt shares my understanding that the [REDACTED]

[REDACTED]⁵ He did not investigate whether the Stockton Report's cost of repair findings are based upon records reflecting the cost of this relevant repair and the execution of this relevant repair.⁶ Dr. Hitt does not opine that the Stockton Report relies upon or assembled improper repair records or those not reflective of the cost of the relevant repair of a CP4 failure.⁷

15. Dr. Hitt either agrees or does not disagree with several of the analytical and data cleansing steps of the Stockton Report.⁸ He does not assert that any step undertaken by the Stockton Report to determine the appropriate records from which to calculate typical repair cost makes the

[REDACTED]⁹ Rather, Dr. Hitt's concern was whether I discerned or could discern enough information from the various repair records [REDACTED]

[REDACTED]¹⁰

⁵ Deposition of Lorin Hitt, 253:13 - 253:22.

⁶ Ibid, 251:4 - 253:12.

⁷ Ibid, 232:13 - 235:18.

⁸ Ibid, 241:7 - 243:3, 252:14 - 253:12, and 254:6 - 260:1.

⁹ Ibid, 235:19 - 238:3, 241:7 - 243:2, 252:14 - 253:12, and 254:6 - 360:1.

¹⁰ Ibid, 227:12 - 227:20, 233:15 - 235:18, and 248:20 - 249:12.

4. COST ESTIMATES AND THE CAUSE OF CP4 FAILURES

16. The Hitt Report alleges that I do not [REDACTED].¹¹ It is helpful to address this assertion in some detail. The following briefly revisits content from the Stockton Report, if only to describe the manner in which the Hitt Report's assertion might apply.

17. The Stockton Report¹² describes the relevant repair as replacement of suite of parts contained in the "Kit" or pre-Kit equivalent, which I understand to be the parts necessary for a replacement of the high-pressure fuel system. As set forth in the earlier summary of Dr. Hitt's deposition testimony, Dr. Hitt does not object [REDACTED]

[REDACTED]. Neither the Hitt Report nor Dr. Hitt's deposition testimony assert that the Stockton Report incorrectly assembled and evaluated repair records that reflect this relevant repair. The Hitt Report's criticism relates to whether [REDACTED]
[REDACTED], as described by Plaintiffs. This is a technical question on which I have no opinion.

18. The Stockton Report's estimates of out-of-pocket costs incurred by Class Members have two general elements. The first is the average cost of repair. The second element is the number of out-of-pocket repairs following catastrophic CP4 failures. Regarding the first element, average cost, the Stockton Report describes in a clear, transparent, and replicable manner the data used to inform the estimated average cost. Regarding the relevant number of repairs, other than two adjustments to which the Hitt Report does not object (pumps in inventory and repairs potentially

¹¹ Hitt Report, ¶31a.

¹² Stockton Report, ¶41.

covered by non-GM extended warranty), I rely on Plaintiffs' technical expert, Dr. Edgar, for this figure.

19. The Stockton Report does take several steps to link the repairs evaluated to those subject to the relevant repair and to ensure reliability of the data sets from which I derive repair cost estimates. Some of these steps include review of the Causal Part Indicator to ensure that it is related to the CP4 pump, reducing repair records to Class States, removing records that appear in close proximity in the Customer Pay Data and Warranty Data files, considering only repair records with the relevant engine type, and excluding repair records for non-Class vehicles.¹³ The Hitt Report does not object to any of these steps.

5. MASKING VARIANCE

20. The Stockton Report does not fail to consider [REDACTED] of records or any proportion close to that.¹⁴ It appears that the Hitt Report's reference to this figure is [REDACTED]
[REDACTED], on the basis of cost, of Customer Pay Repairs after data cleansing and applying the IQR test. However, this is not the number of records that the Stockton Report considers. A concise illustration of this is appears in **Tab 1** of the Supplemental Report, which calculates average repair costs based on larger proportions of the data. It should also be clear that, in any case, the [REDACTED] figure is not a proportion of records that Dr. Hitt asserts should have been included. As described earlier, Dr. Hitt [REDACTED]
[REDACTED]. Some of these steps include limiting to records to Class Vehicles in Class States where repairs occurred during what I understand to be the Class Period, and the records were not duplicated in the Warranty Data

¹³ Stockton Report, Tabs 3-4 and Supplemental Report, Tab 1.

¹⁴ Hitt Report, Paragraph 105.

File. Dr. Hitt does not [REDACTED]

[REDACTED]¹⁵

6. EXCLUDED RECORDS

21. The Stockton Report and the Supplemental Report estimate repair costs using records most likely to represent a relevant repair following a catastrophic CP4 failure. The data cleansing and data selection applied process is principled and transparent. Dr. Hitt does not assert that [REDACTED]

[REDACTED]¹⁶

22. It is helpful to not *include* these records that the Stockton Report excludes in its cost estimates as to do otherwise would not be a neutral decision. Doing so would base cost estimates on records that do not have characteristics of the relevant repair. After the intro of the Kit when this comparison is valid, [REDACTED] of records with parts costs of less than [REDACTED] reference parts numbers for pumps, but not for Kits. Having a record of the sale of a CP4 pump is a plausible reason for a record to appear in the Customer Pay Data File while representing something other than a relevant repair. Likewise, dealerships may also sell pumps without corresponding labor services.

23. To the extent that a dealership advocates on the customer's behalf to have GM cover the repair cost, this would generally appear in the Warranty Data File that does include this category of work, called "Policy." In that case, it is my understanding that Dr. Edgar's counts of CP4 repairs would already credit GM for covering the cost of repair, meaning that the repair would not count in my estimate of aggregate damages. Thus, it would be inappropriate to estimate an out-of-pocket cost for that repair. To the extent that a dealership paid its own technicians to perform a repair

¹⁵ Deposition of Dr. Lorin Hitt, 254:15-19.

¹⁶ Ibid, 237:13-15.

without seeking to recover any labor costs from a customer, the GM Dealer Financial Statement includes a separate expense item for Policy.¹⁷

24. The Customer Pay records considered in the Stockton Report do include many records with very low labor costs relative to the number of hours necessary to perform the relevant repair, which does account for potential discounted labor costs at the dealership level.¹⁸

7. CP4 FAILURES WITHIN WARRANTY PERIOD

25. The Customer Pay Data File does not include odometer readings at the time of a service encounter. However, it does describe a vehicle's model year and the date of the encounter, which makes it possible to estimate the vehicle's age. The Warranty Data File does provide odometer readings at the time of a service encounter. From this file, it is possible to determine the percentage of vehicles of a given age, based on *Year of Repair – Model Year*, that have mileage of less than 100,000 miles. For example, if 1,000 of 10,000 vehicle of age three have less than 100,000 miles at the time of their service encounters, then this would be a value of 10%.

26. Using these frequencies of vehicles with 100,000 miles or less, calculated as described immediately above from the Warranty Data File, I estimate the percentage of vehicles in the Customer Pay Data File that were five years old or less and had less than 100,000 miles at the time of their service encounters. Using this method, between [REDACTED] and [REDACTED] of VINs in the Customer Pay Data file were within the five-year/100,000 mile threshold at the time of their repairs. While this method cannot confirm a precise percentage of repaired vehicles that were within the original warranty period, it is intuitive that the percentage was substantial. For a vehicle three years old, it

¹⁷ See, for example, p2 line 25 of GM_CP4_000214168-224540 Composite Financial Statements.pdf.

¹⁸ VINs 1GT120E8XFF638212, 1GT12UE83GF141575, 1GT120C83BF146859, and 1GC1KXC85BF109773 are just a few of many examples. [REDACTED] of analysis records have labor costs [REDACTED] or less.

would exceed 100,000 miles only if its average annual mileage was over 33,000 miles, which is more than twice the EPA average mileage accumulation of 15,000¹⁹. For a vehicle two years old, it would need to accumulate over 50,000 miles per year. Notably [REDACTED] of vehicles in the Customer Pay Data File are three years old or less. See **Attachment 1**.

8. PROPOSED OVERPAYMENT ALLOCATION

27. The Stockton Report proposed a method to allocate overpayment at the point of purchase across multiple owners of the same vehicle. This method is not a depreciation model, and it does not depend upon any assumed depreciation rates or relative depreciation rates. It is based upon the relative participation in initial overpayment among multiple owners of a given vehicle. No assumption of equivalent depreciation rates between the CP4 pump and the entire vehicle need apply, and it would not apply to the model I propose. Rather, it would be analytically incorrect to do so. The Defect is an undisclosed element of the transaction, and the nature of the Defect is that it makes the vehicle unreasonably prone to catastrophic failures of the CP4 pump. When this occurs, the implications of those failures are not limited to the pump itself and are, instead, much broader. Thus, consideration of the cost of a failure or failures, under any circumstance, would not tie directly to the pump alone. I also understand that Plaintiff's overpayment estimate applies to the entire vehicle, not just the CP4 pump.

8.1. UPDATED CALCULATION

28. **Attachment 2** identifies the pages that updated from the Stockton Report. The only changes are to incorporate the Corrected Customer Pay Data File and Dr. Edgar's updated estimate of CP4 failures not covered by warranty.

¹⁹ "Text Version of the Gasoline Label," United States Environmental Protection Agency, accessed June 14, 2022, <https://epa.gov/fueleconomy/text-version-gasoline-label>.

29. Using the corrected GM Customer Pay Data File and Dr. Edgar's updated counts of CP4 Pump replacements outside of warranty, I update average and aggregate repair costs presented in the Stockton Report and the Supplemental Report. The methods and general data sources do not change here. I also slightly modify the offset to economic harm attributable to repairs covered under non-GM Extended Warranty plans to account for an additional 32 Extended Warranty repairs not captured in the Stockton Report. The impact of this correction affects aggregate damages by less than 0.5%.

30. **Table 1** below shows updated average and aggregate repair costs.

Table 1: Updated Summary of Typical Repair Costs²⁰

	Parts	Labor	Total
Warranty	██████	██████	██████
Customer Pay	██████	██████	██████
GM Internal Estimates	██████	██████	██████

31. **Table 2** below shows updated average and aggregate repair costs.

Table 2: Updated Aggregate Repair Costs

	Cost of Repair	Repairs	Aggregate Damages
Warranty	██████	██████	██████████
Customer Pay	██████	██████	██████████
GM Internal Estimates	██████	██████	██████████

9. DATA/DOCUMENTS RELIED ON

32. **Attachment 3** sets forth the materials received and relied upon in forming my opinions.

²⁰ Although the Warranty Data File did not change, the overlapping records between the Warranty Data File and the Corrected Customer Pay Data File change somewhat which causes the warranty figures to change from the prior figures in the Stockton Report.

10. CONCLUSION

33. Neither Dr. Hitt nor GM's Motion challenges the substance of the methods and data by which I propose to estimate Class-wide economic harm. The methods by which I propose to estimate economic harm align with Plaintiffs' liability theories as I understand them.

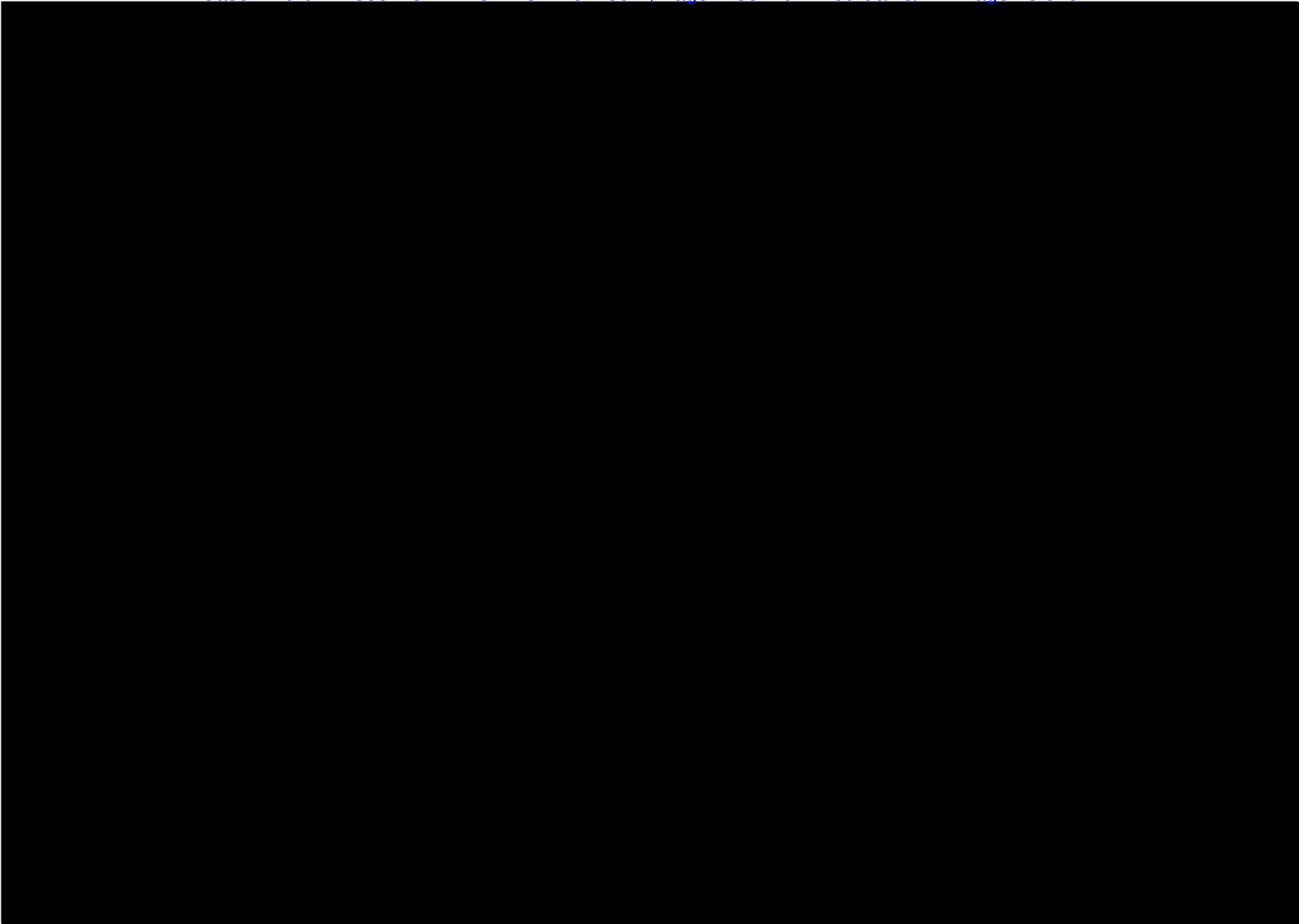
Executed on June 15, 2022.

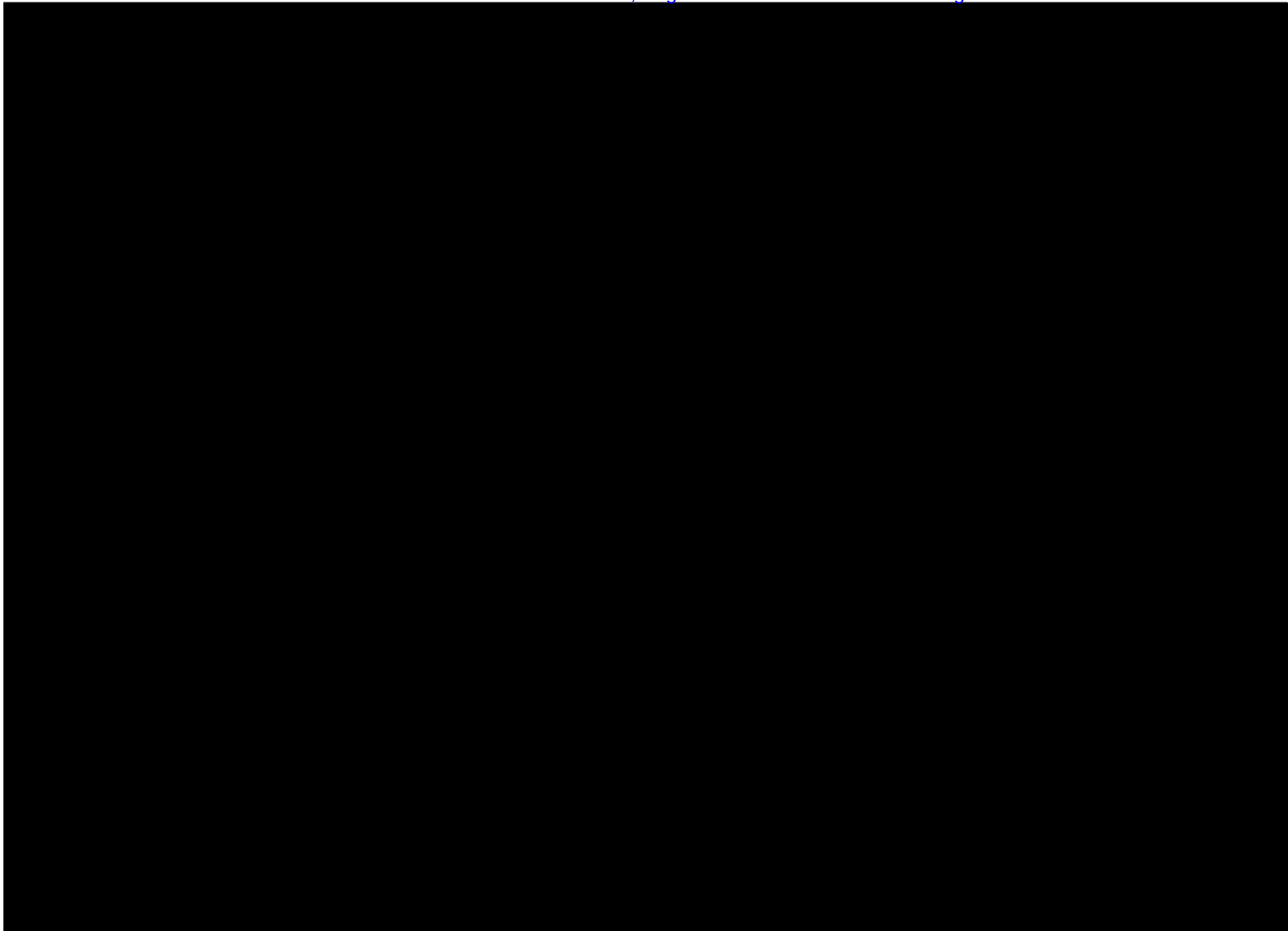
A handwritten signature in black ink, reading "Edward M. Stockton". The signature is written in a cursive style with a horizontal line underneath.

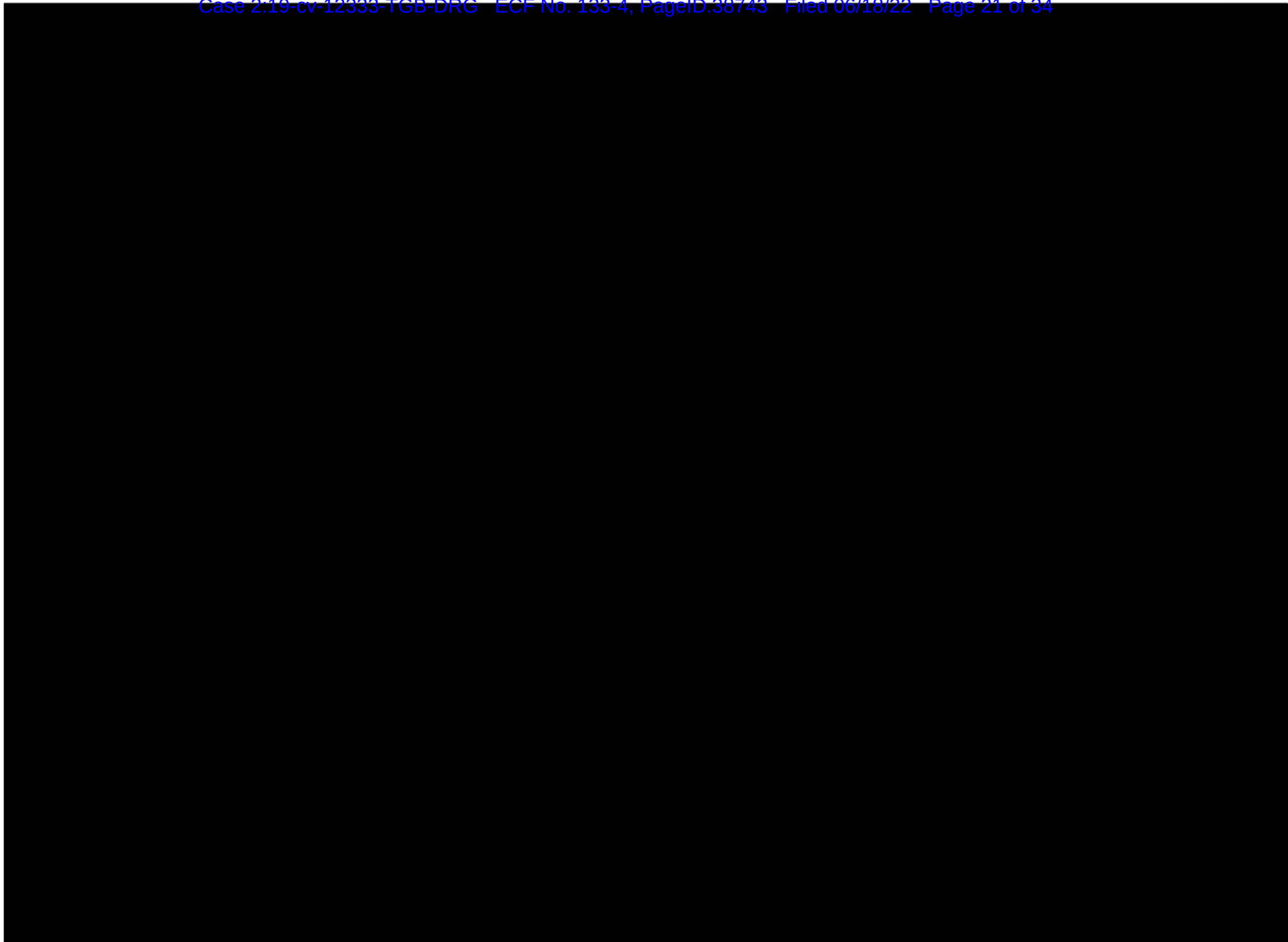
Edward M. Stockton

Attachment 1

**Customer Pay Repairs by
Age & Estimated Mileage**







Attachment 2

Updated Damage Calculations

**This Attachment Updates the Following Pages from the
Expert Report of Edward M. Stockton, March 2022:**

Tab 7 Page 1

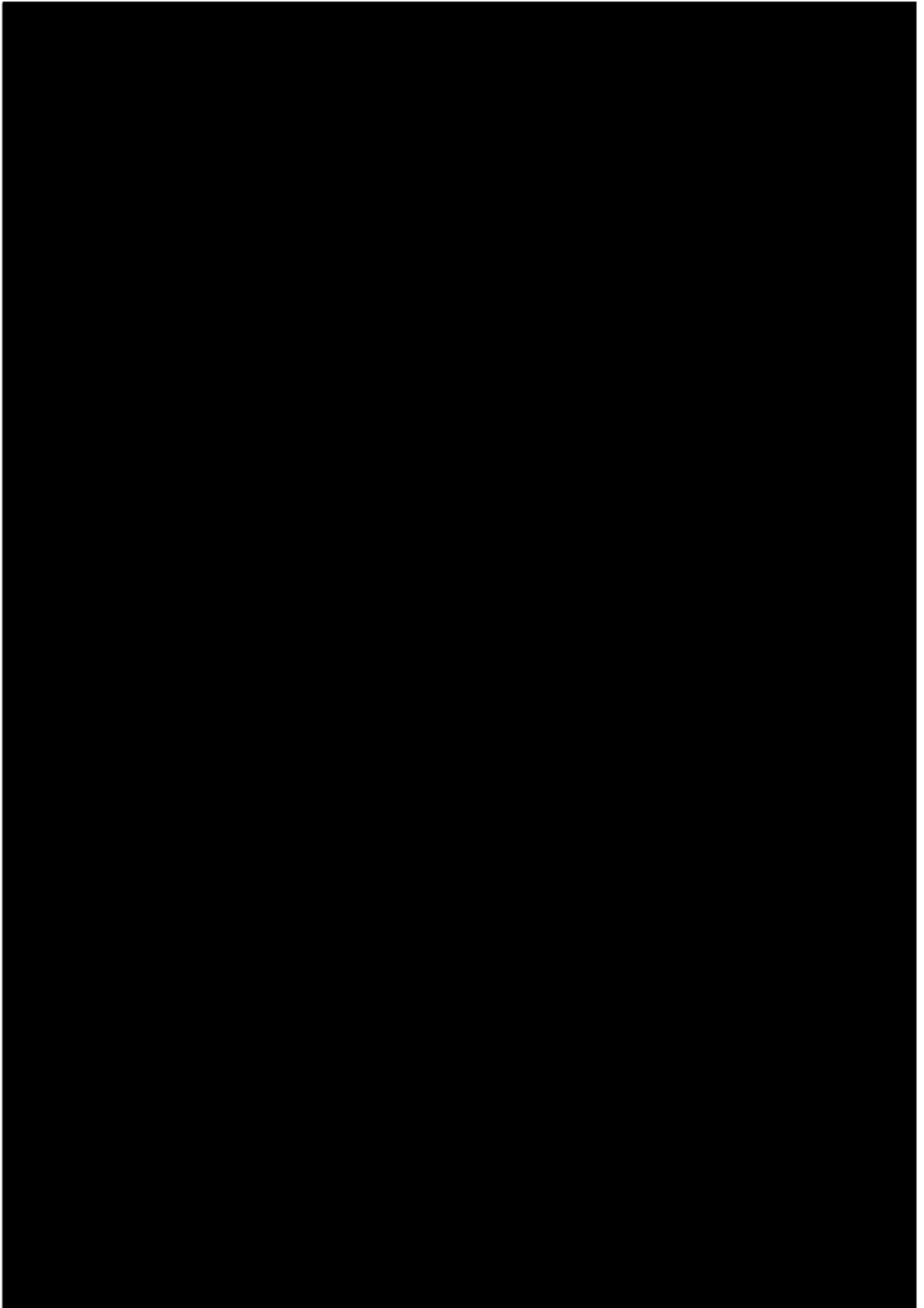
Tab 9 Page 1

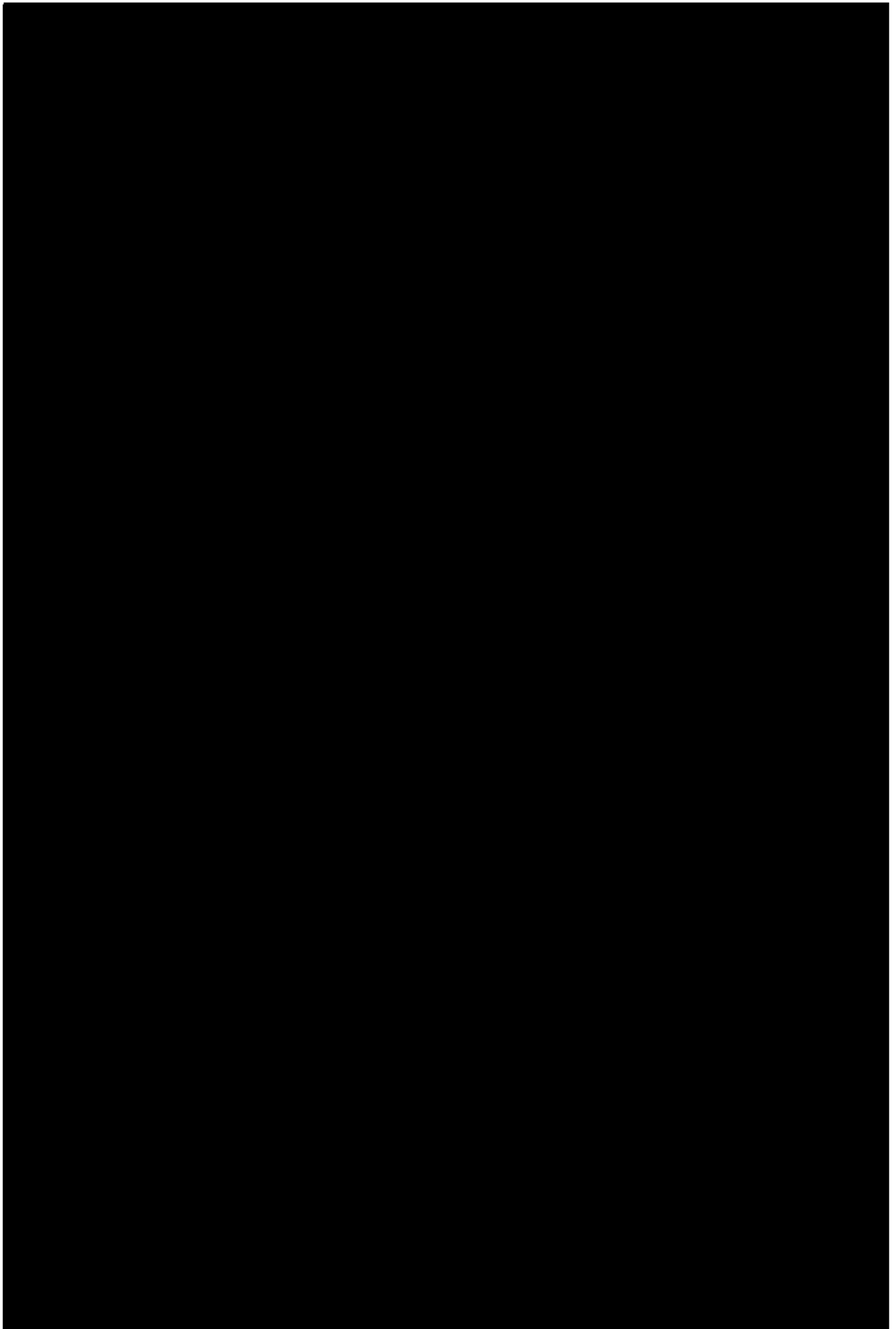
Tab 15 Pages 1 and 2

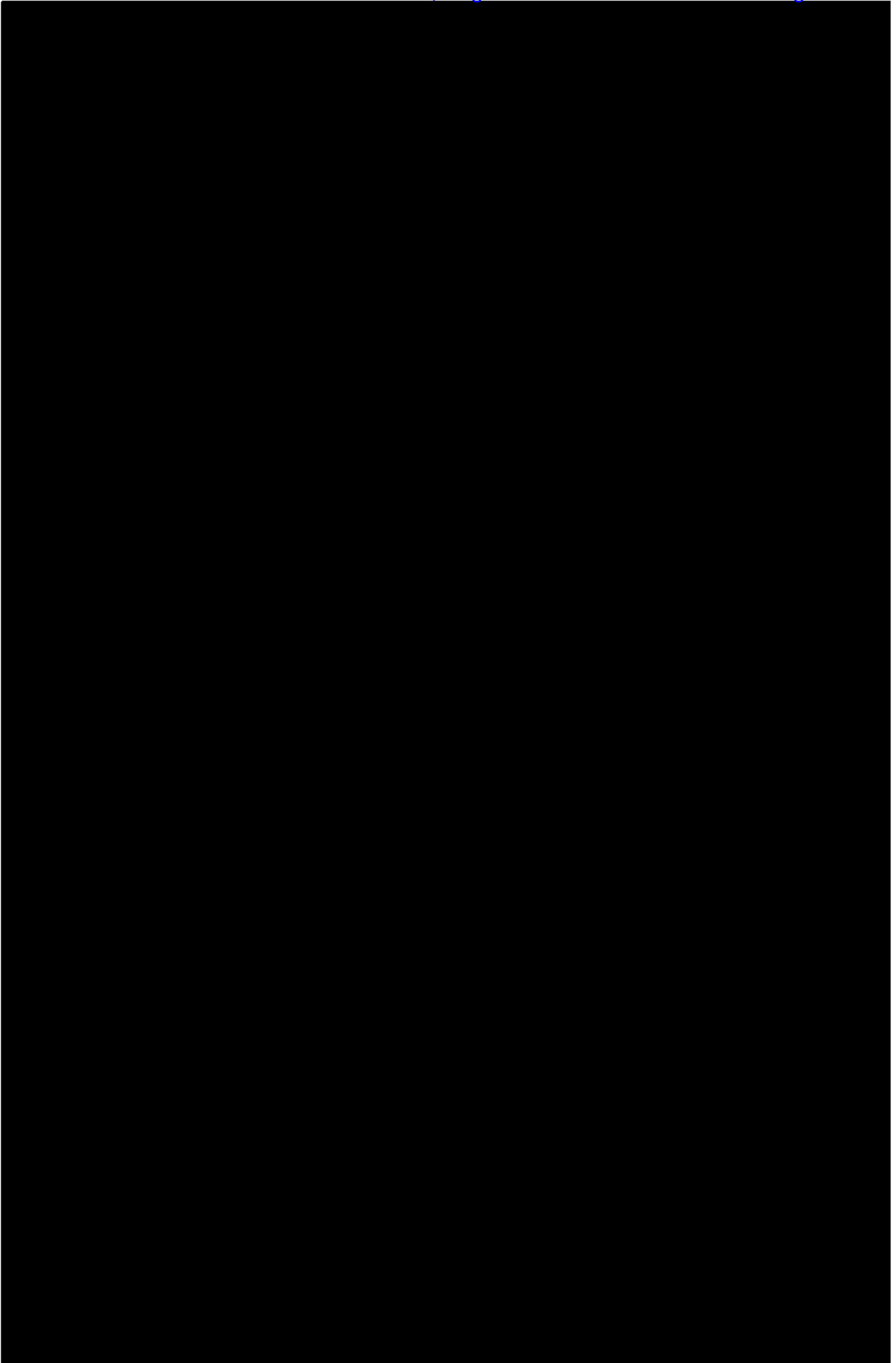
Tab 16 Pages 1 and 2

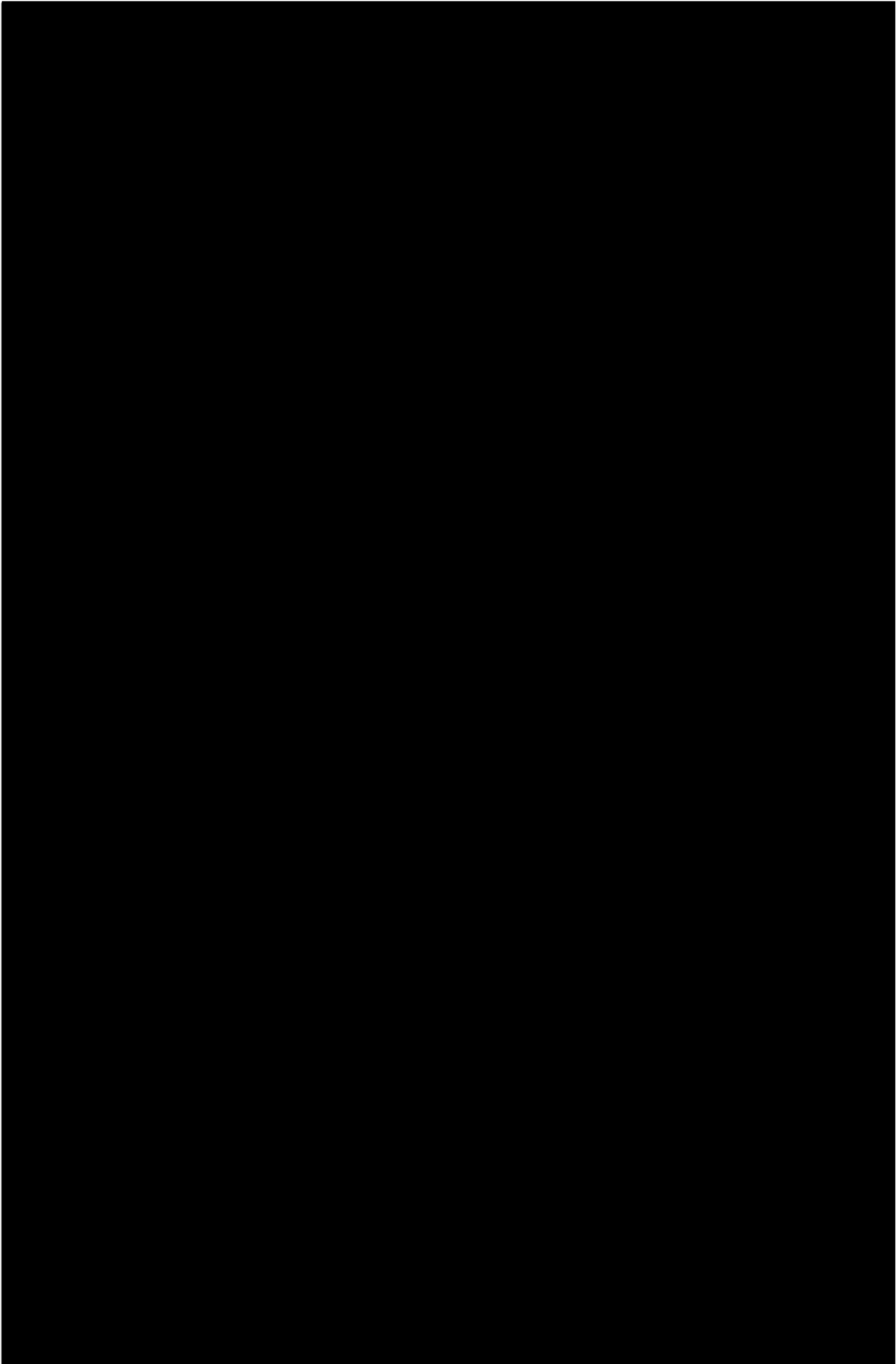
Tab 17 Pages 1 and 2

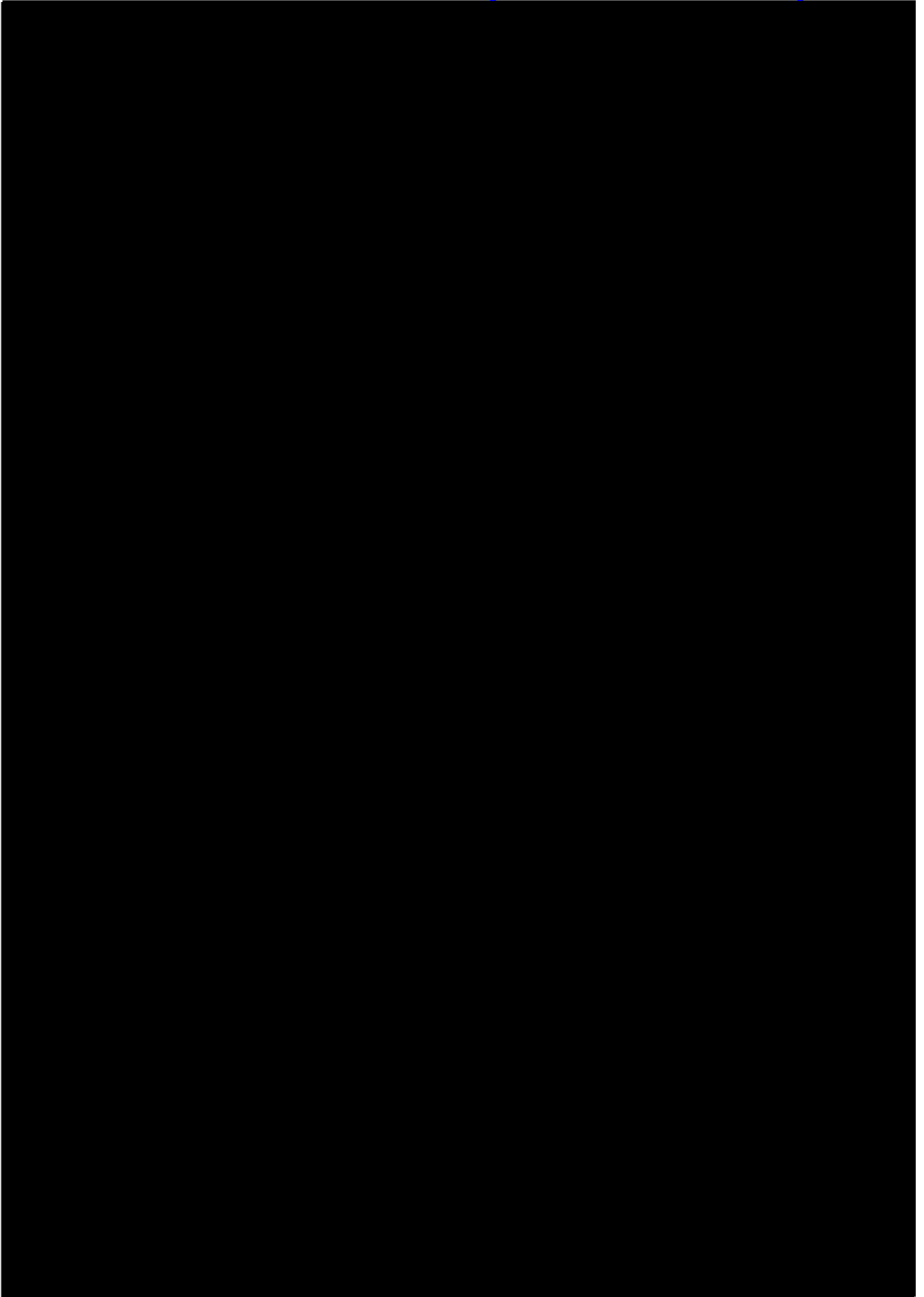
Tab 18 Page 1

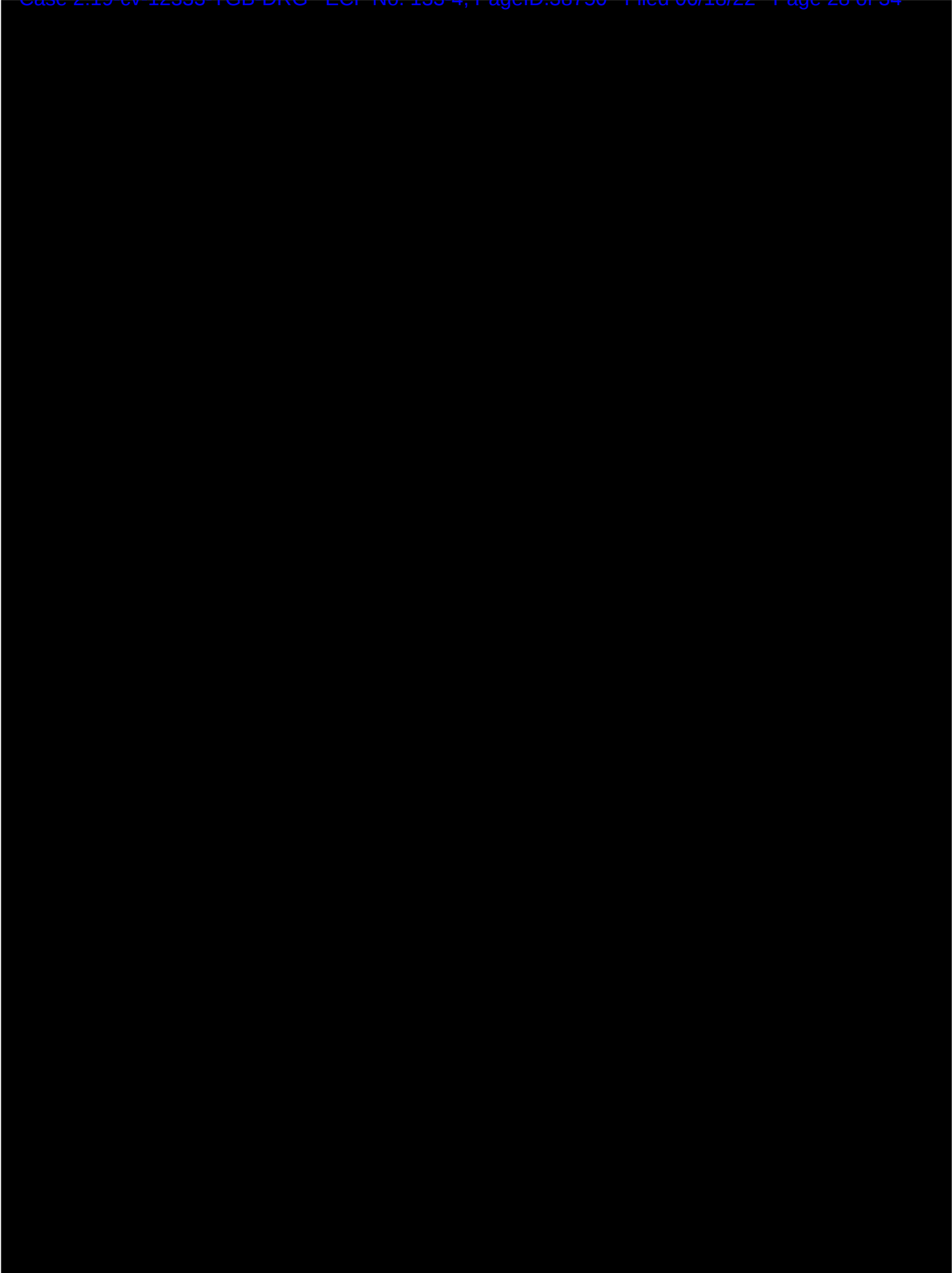


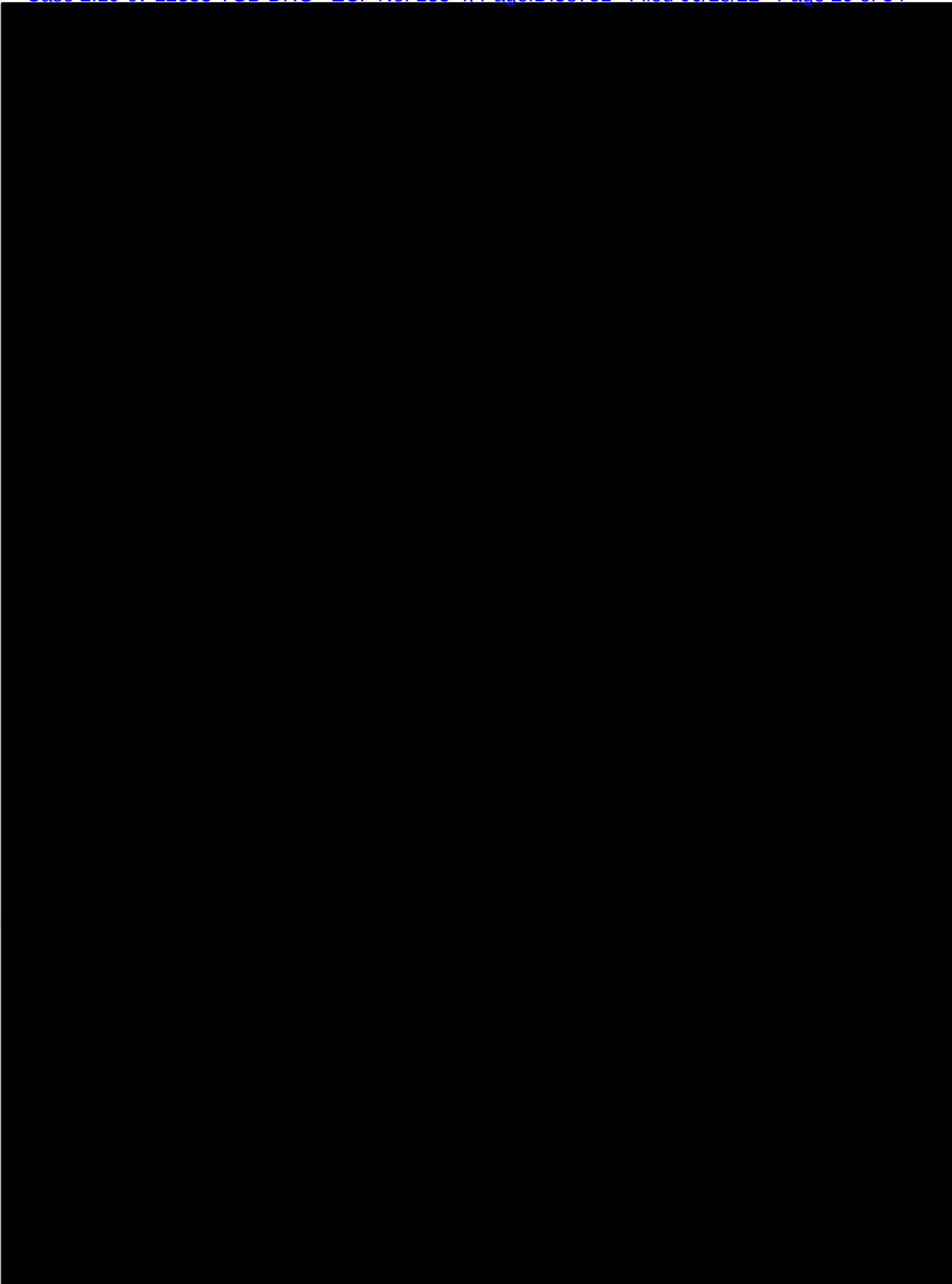


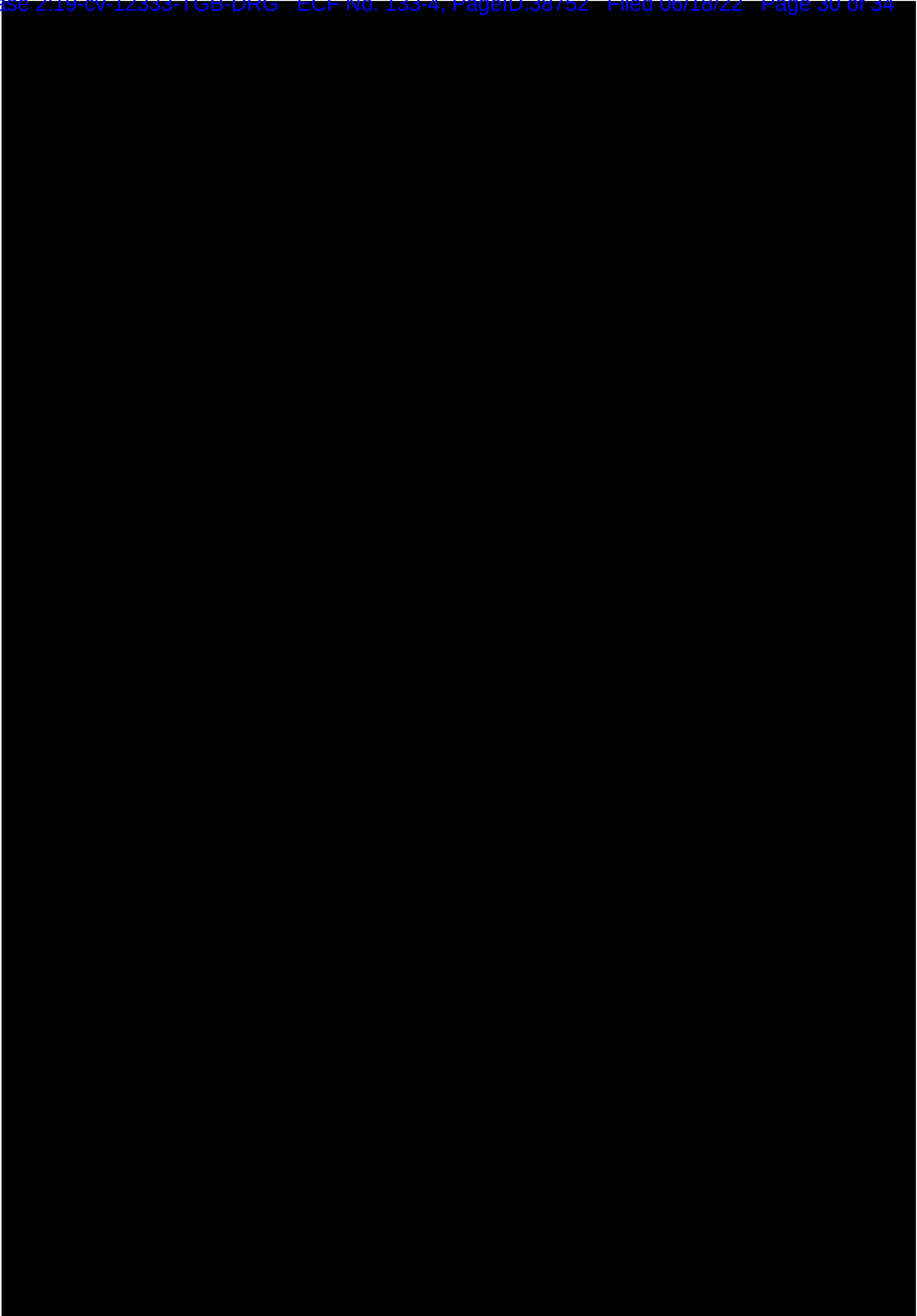


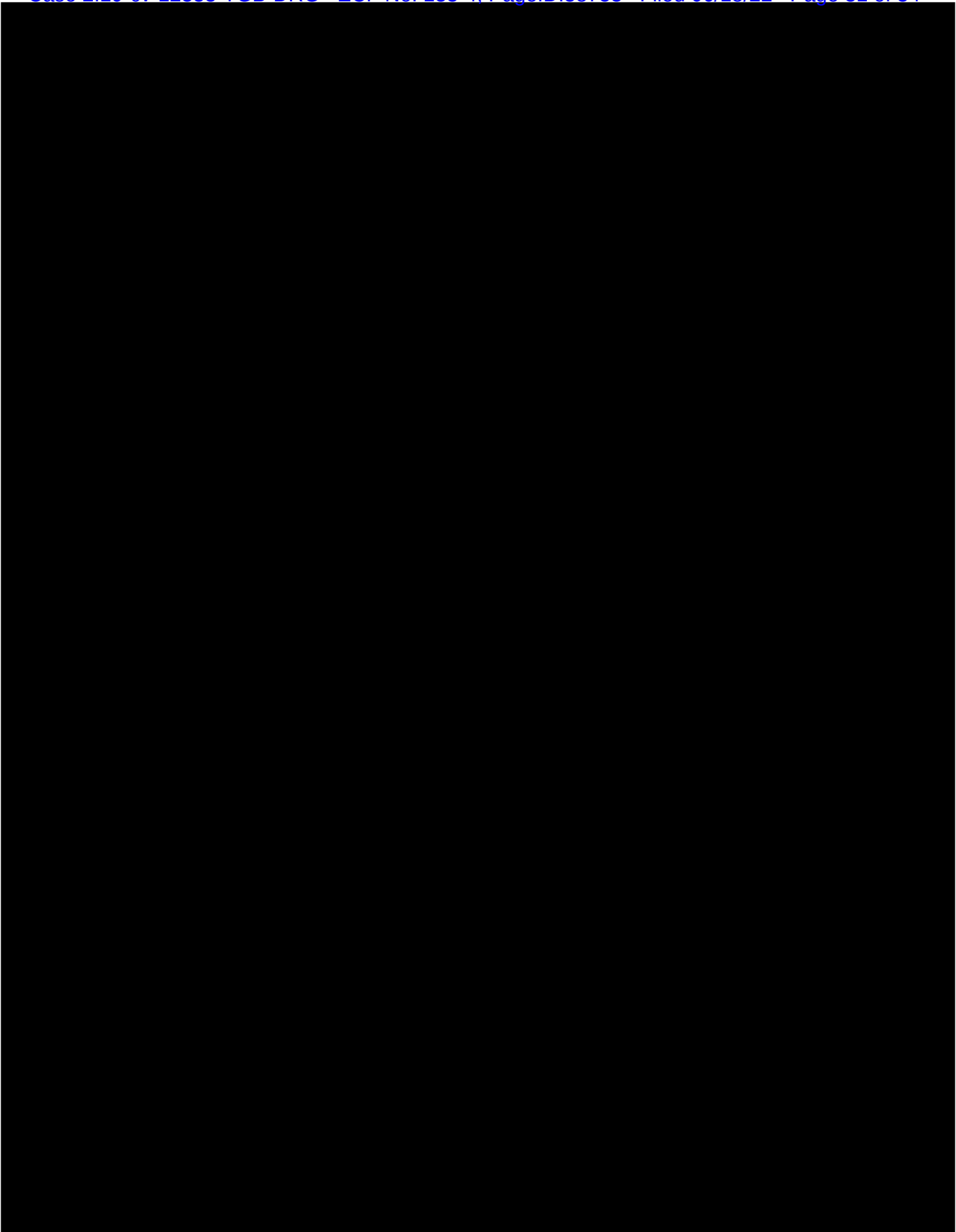












Attachment 3

**Data/Documents Reviewed/Relied Upon &
Received**

Data/Documents Reviewed/Relied Upon & Received

Documents as identified in Tab 24 of Stockton's March Report.

Data/Documents Reviewed/Relied Upon

General Motors' Motion to Exclude Opinions and Testimony of Plaintiffs' Expert Edward M. Stockton (May 6, 2022), ECF No. 119.

Dr. Hitt Report, 5/6/2022.

Deposition of Dr. Hitt, 6/1/2022.

"Text Version of the Gasoline Label," United States Environmental Protection Agency, accessed June 14, 2022, <https://epa.gov/fueleconomy/text-version-gasoline-label>.

Manufacturer Customer Pay Data File (Updated 5/2022), 2010 - 2022.

Dr. Bradley Edgar CP4 Replacements Data File, (Updated 5/2022).

Customer Care and Aftersales Part Sales Files.

GM Parts Direct Internet Site, 6/2022.

Responses of General Motors to Plaintiffs' First Set of Interrogatories.

Data/Documents Received

2013 Silverado 3500 - RO720.pdf

2019.09.25 Responses to Plaintiffs' First Interrogatories.pdf

2022.05.07-119 - GM Motion to Exclude Stockton SEALED HIGHLIGHTED.pdf

2022.05.07-119-1 - GM Motion to Exclude Stockton SEALED HIGHLIGHTED - Exhibit Index.pdf

2022.05.07-119-2 - GM Motion to Exclude Stockton SEALED HIGHLIGHTED Ex. 1 - Stockton Supplemental Report.pdf

2022.05.07-119-3 - GM Motion to Exclude Stockton SEALED HIGHLIGHTED - Ex. 2 Stockton Depo Excerpts.pdf

2022.05.07-119-4 - GM Motion to Exclude Stockton SEALED HIGHLIGHTED - Ex. 3 Edgar Depo Excerpts.pdf

2022.05.07-119-5 - GM Motion to Exclude Stockton SEALED HIGHLIGHTED - Appendix of Unpublished Authorities_Stockton.pdf

CLICK LITIGATION CCA SALES 20220228.xlsx

CLICK LITIGATION REPAIRS 20220228.xlsx

CLICK LITIGATION WHOLESALE 20220228.xlsx

Edgar Appendix D-1 - The Class V2.csv

Edgar Appendix D-2 - The Failure Group V2.csv

Edgar Appendix D-3 - The Overpayment Group V2.csv

EdwardMStockton.ptx

EdwardMStockton.txt

EdwardMStockton.xmef

Data/Documents Reviewed/Relied Upon & Received

EdwardMStockton_1.pdf

EdwardMStockton_2.pdf

EdwardMStockton_3.pdf

EdwardMStockton_COND.pdf

EdwardMStockton_LinkPDF.pdf

EdwardMStockton_PDFTran.pdf

Ex. 51- Declaration of Lorin Hitt with Appendices 2022.05.06.pdf

GM_CP4_000224897 - GM_CP4_000224902.

HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE
ORDER_CP4_Savana_Express_new_20220309_out.xlsx

HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE
ORDER_CP4_Savana_Express_orig_20220309_out.xlsx

HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE
ORDER_CP4_Silverado_Sierra_orig_20220309_out.xlsx

LorinMHittPhD_COND.pdf